

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JORDAN DAVID KNIPPLING,  
Plaintiff,

v.

SGT. MAGNUSON, BENTON COUNTY  
JAIL AND CITY OF KENNEWICK,  
Defendants.

NO. CV-08-0402-CI

**ORDER DECLINING TO ADOPT  
REPORT AND RECOMMENDATION,  
DENYING PLAINTIFF'S REQUEST  
FOR DISCOVERY, AND GRANTING  
PLAINTIFF LEAVE TO FILE AN  
AMENDED COMPLAINT**

Before the Court, without oral argument, are Plaintiff Jordan David Knipplings' Motion for Extension of Time for the Objection and Discovery (Ct. Rec. [9](#)) and Motion for Discovery in § 1983 Claim on Defendants (Ct. Rec. [10](#)), as well as the Report and Recommendation to Dismiss Complaint in Part ("Report and Recommendation") prepared by the magistrate judge (Ct. Rec. [7](#)). The magistrate judge issued the Report and Recommendation on January 29, 2009, which provided Plaintiff with ten (10) days to file an objection to the recommendation that Plaintiff's claims against Defendants Benton County Jail and the City of Kennewick be dismissed because the Complaint (Ct. Rec. [6](#)) fails to allege sufficient facts establishing 1) a connection between these Defendants and the harm that Plaintiff suffered and 2) that these Defendants engaged in a pattern or practice depriving Plaintiff's constitutional rights.

Plaintiff did not file a timely objection to the Report and Recommendation; rather, on February 23, 2009, he filed the above-listed

1 motions. Plaintiff requests an additional sixty (60) days to file an  
2 objection so that he may conduct discovery to support his claims against  
3 Defendants Benton County Jail and the City of Kennewick. The Court  
4 denies Plaintiff's requests for discovery. Discovery is not appropriate  
5 until the Complaint passes screening under 28 U.S.C. § 1915A(a). In  
6 order to pass this screening, Plaintiff need not present evidence to  
7 support his claims; rather, Plaintiff must file a complaint that states  
8 a claim that is not legally frivolous or malicious, upon which relief may  
9 be granted, and that does not seek monetary relief from a defendant who  
10 is immune from such relief. 28 U.S.C. §§ 1915A(b)(1), (2) & 1915(e)(2).  
11 The Court agrees with the Report and Recommendation that the current  
12 Complaint fails to state a claim against Defendants Benton County Jail  
13 and the City of Kennewick because it fails to allege facts to establish  
14 how these Defendants 1) caused or personally participated in causing a  
15 deprivation of Plaintiff's protected rights and 2) engaged in a pattern  
16 or practice that deprived Plaintiff's constitutional rights. However,  
17 because it is not clear that Plaintiff is unable to present a sufficient  
18 complaint, leave is given for Plaintiff to file an amended complaint  
19 within sixty (60) days.

20 Accordingly, **IT IS HEREBY ORDERED:**

21 1. The Report and Recommendation to Dismiss Complaint in Part (**Ct.**  
22 **Rec. 7**) is **NOT ADOPTED** at this time. A second report and recommendation  
23 is to be prepared after the sixty (60) day period has elapsed.

24 2. Plaintiff's Motion for Extension of Time for the Objection and  
25 Discovery (**Ct. Rec. 9**) is **GRANTED** (opportunity to file amended complaint)  
26 **AND DENIED** (discovery) **IN PART**.

1 3. Plaintiff's Motion for Discovery in § 1983 Claim on Defendants  
2 (Ct. Rec. [10](#)) is **DENIED**.

3 4. Plaintiff shall file an amended complaint within **sixty (60)**  
4 **days of this Order**. Failure to file a timely amended complaint will  
5 constitute consent to dismissal of Defendants Benton County Jail and the  
6 City of Kennewick.

7 **IT IS SO ORDERED**. The District Court Executive is directed to enter  
8 this Order and forward a copy to Plaintiff.

9 **DATED** this 6<sup>th</sup> day of March 2009.

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11 S/ Edward F. Shea  
12 EDWARD F. SHEA  
United States District Judge

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